

LAW OFFICES  
**COHN AND MARKS LLP**

ORIGINAL

ROBERT B. JACOBI  
ROY R. RUSSO  
RONALD A. SIEGEL  
LAWRENCE N. COHN  
RICHARD A. HELMICK  
J. BRIAN DE BOICE  
JEROLD L. JACOBS  
SUSAN V. SACHS

SUITE 300  
1920 N STREET N.W.  
WASHINGTON, D.C. 20036-1622

TELEPHONE (202) 293-3860  
FACSIMILE (202) 293-4827  
HOMEPAGE WWW.COHNMARKS.COM

OF COUNSEL  
MARCUS COHN (1913-2001)  
LEONARD H. MARKS (1916-2006)  
JOEL H. LEVY  
ELLEN MANDELL EDMUNDSON

DIRECT DIAL: 202/452-4823  
EMAIL ADDRESS: jerold.jacobs@cohnmarks.com

January 11, 2007

**VIA HAND DELIVERY**

Marlene H. Dortch, Secretary  
Federal Communications Commission  
Portals II, Filing Center, TW-A325  
Washington, D.C. 20554

FILED/ACCEPTED

JAN 11 2007

Federal Communications Commission  
Office of the Secretary

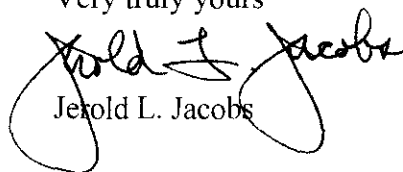
**Re: MB Docket No. 87-268  
(DTV Table of Allotments)**

Dear Ms. Dortch

Enclosed for filing, on behalf of our client, Delta College, are an original and four (4) copies of its "**COMMENTS OF DELTA COLLEGE**" in the above-referenced matter.

Please direct any communications or correspondence concerning this matter to the undersigned.

Very truly yours

  
Jerold L. Jacobs

Enc.

No. of Copies filed 0 + 4  
FILED ABOVE

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

ORIGINAL

In the Matter of )  
 )  
Advanced Television Systems ) MB Docket No. 87-268  
and Their Impact Upon the )  
Existing Television Broadcast )  
Service )

FILED/ACCEPTED

JAN 11 2007

Federal Communications Commission  
Office of the Secretary

To: Secretary, Federal Communications Commission  
Att: The Commission

**COMMENTS OF  
DELTA COLLEGE**

**DELTA COLLEGE** (FRN 0002-7352-49), permittee of Noncommercial Educational Station WDCP-DT (Facility ID #16528), University Center, Michigan, by its attorneys, hereby comments on an inaccuracy in Appendix B of the *Seventh Further Notice of Proposed Rule Making in MB Docket No. 87-268 ("FNPRM")*, 21 FCC Rcd 12100 (2006), concerning WDCP-DT. For the reasons which follow, these Comments respectfully propose the following change in the DTV Table of Allotments:

**Fac. ID #16528, University Center MI: Delete the entire listing for DTV Channel 18.**

1. Paragraph 16 of the *FNPRM*, 21 FCC Rcd at 12105-106, invited comments on inaccuracies or discrepancies in the proposed final DTV Table of Allotments. Delta College notes that Appendix B of the *FNPRM*, 21 FCC Rcd at 12174, contains DTV parameters for Station WDCP-DT (Facility ID #16528), DTV Channel 18, University Center, Michigan. However, in a letter filed with the Commission on July 29, 2005 (copy attached), Delta College made clear that it has no intention of

constructing or operating that DTV station, but rather wishes to operate its companion NTSC Station WDCP-TV until the end of the DTV transition, after which it will discontinue operations and turn in its NTSC license for Channel 19.

2. Delta College did not seek an extension of WDCP-DT's original construction permit (Permit File No. BPEDT-20000217ABB) when it expired on May 1, 2003 and assumed that the Commission would simply remove that authorization and its parameters from the DTV database automatically, but that did not happen. Using the same logic, the College did not file a Form 381 DTV pre-election certification in November 2004 or a Form 382 DTV channel election in January 2005. As stated in its July 29, 2005 letter (at 3) (emphasis added):

Delta College sincerely regrets that it did not affirmatively inform the Commission sooner about its abandonment of its DTV Channel 18 allotment. It is possible that other NTSC stations in Delta College's environs may wish to elect to use that DTV frequency in the current channel election process, but are not sure that the frequency is available. **This letter makes the availability of DTV Channel 18 at University Center, Michigan crystal-clear, which may help stations in the Second Round of DTV channel selections and thereafter.**

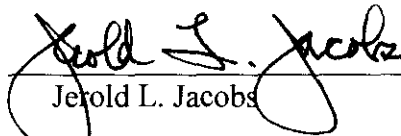
3. Delta College again expresses its sincere regrets that its efforts to signify its abandonment of its DTV Channel 18 allotment were not more clearly conveyed to the Commission until July 29, 2005. As stated in its July 29, 2005 letter (at 4), which is still pending, the College is requesting the Commission's authority (if needed) for WDCP-TV to continue to operate on NTSC Channel 19 until the end of the DTV transition period without constructing and operating its companion DTV Channel 18. At the end of the DTV transition, the College will simply shut down NTSC Station WDCP-TV.

4. Therefore, in view of the foregoing, Delta College respectfully requests that **Appendix B of**

the *FNPRM* should be modified to delete the entire listing for Fac. ID #16528, University Center MI, DTV Channel 18 from the Appendix.

Respectfully submitted

DELTA COLLEGE

By:   
Jerold L. Jacobs

Cohn and Marks LLP  
1920 N Street, N.W. Suite 300  
Washington, D.C. 20036-1622  
Tel. 202-293-3860

Its Counsel

Dated: January 11, 2007

Att: July 29, 2005 Letter to FCC

LAW OFFICES

**COHN AND MARKS LLP**

**STAMP AND RETURN**

ROBERT B. JACOBI  
ROY R. RUSSO  
RONA D.A. SIEGEL  
LAWRENCE N. COHN  
RICHARD A. HELMICK  
J. BRIAN DE ROICE  
JEROLD L. JACOBS  
JOSEPH M. DISCIPPIO  
KEVIN M. GOLDBERG

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OF COUNSEL:  
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LEONARD H. MARKS  
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TELEPHONE (202) 293-3860

FACSIMILE: (202) 293-4827

HOME PAGE: WWW.COHNMARKS.COM

SUSAN L. SARLES

DIRECT DIAL  
202 452-4823

EMAIL ADDRESS:  
jerold.jacobs@cohnmarks.com

July 29, 2005

**VIA HAND DELIVERY AND E-MAIL**

**RECEIVED - FCC**

**JUL 29 2005**

Clay Pendarvis, Esq.  
Associate Chief, Video Division  
Media Bureau  
Federal Communications Commission  
Washington, D.C. 20554

**Federal Communication Commission  
Bureau / Office**

Re: **Delta College (FRN 0002-7352-49)  
Station WDCP-TV, University Center MI  
Fac. ID #16528  
CONTINGENT REQUEST FOR AUTHORITY TO  
CONTINUE TO OPERATE AN NTSC STATION  
WITHOUT A COMPANION DTV STATION**

Dear Mr. Pendarvis

I am writing on behalf of our client, Delta College, licensee of Station WDCP-TV, University Center, Michigan, to request, if necessary, Commission authority for WDCP-TV to continue operating on NTSC Channel 19 until the end of the DTV transition without constructing and operating its companion DTV Channel 18. An original and four (4) copies of this letter are being filed. As Delta College will now demonstrate, good cause exists for the requested relief (assuming that such relief is even necessary -- see page 3).

**No filing fee is included with this letter because Delta College is a noncommercial educational broadcast licensee.**

**Undersigned counsel is authorized as an agent of Delta College to certify that neither the licensee nor any party of the licensee entity is subject to a denial of Federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. §862.**

**Background**

Delta College has two licensed NTSC stations in the Flint-Saginaw-Bay City, Michigan DMA: WDCP-TV, Channel 19, licensed to the College's campus town -- University Center, Michigan;

and WDCQ-TV, Channel 35, licensed to a community located approximately 50 miles east of the College campus at Bad Axe, Michigan. In the *Sixth Report and Order in MM Docket No. 87-268* ("Sixth Report and Order"), 12 FCC Red 14588 (1997), the Commission awarded DTV Channel 18 as the companion frequency for WDCP-TV and DTV Channel 15 as the companion frequency for WDCQ-TV. WDCP-TV was the College's original TV station, and it went on the air in 1964; WDCQ-TV went on the air in 1986. However, because the Grade B contours of the two NTSC frequencies significantly overlap each other, the College made the eventual judgment (explained below) that it did not make economic or engineering sense for it to continue to operate two full-power stations after the DTV transition.

Hence, although Delta College dutifully filed a Form 340 minor modification application in 2000 to implement its Channel 18 DTV allotment for WDCP-TV (File No. BPEDT-20000217ABB), and that application was granted in September 2001, the College did not implement or extend that DTV construction permit, and it expired on May 1, 2003. However, at the same time, the College filed a minor modification application to implement its Channel 15 DTV allotment for WDCQ-TV in 2000, and constructed and licensed the resulting construction permit for WDCQ-DT, Bad Axe (File No. BLEDT-20030922ABG). Therefore, at the present time Delta College has a full-power (200 kW ERP) DTV station operating on DTV Channel 15 with its tower located between its two NTSC stations, so that WDCQ-DT's 48 dBu coverage contour essentially provides "digital television service to the combined Grade B service areas of the two NTSC stations with one digital signal" (Engineering Statement, p. 2, Cohen, Dippell and Everist, File No. BMPEDT-20020306ABV).

### **Justification for Allowing Continued NTSC Operations**

Over the last five years, as Delta College continued to evaluate its engineering options for DTV operations on DTV Channels 15 and 18, it realized that it would be fiscally irresponsible for it, as a noncommercial educational television station, and also wasteful of the electromagnetic spectrum, to build two DTV facilities, which, as already stated, would have largely overlapping service areas. In choosing which DTV facility to favor, the fact that WDCP-DT would have special technical implementation problems, due to the adjacent channel allotments of NTSC Channel 19 and DTV Channel 18 to WDCP-TV, dictated Delta College's ultimate conclusion that it would not construct WDCP-DT.

No precise date can be given for the determination not to construct WDCP-DT's construction permit, because it was an evolving decision. However, the College filed the above-referenced construction permit modification application for WDCQ-DT in March 2002, which enhanced the station's proposed facilities to essentially encompass both stations' NTSC service areas, and as the May 1, 2003 expiration date for the permit neared, the College instructed communications counsel not to file a Form 337 construction permit extension application for WDCP-DT. Likewise, the College instructed counsel not to file a Form 381 Pre-Election Certification pertaining to WDCP-DT in November 2004 or a Form 382 First Round Digital Channel Election Form in January 2005. The College's reasoning was simply that it did not want to mislead the Commission into thinking that it WAS going to construct WDCP-DT.

Delta College notes that in Paragraph 70 of the *Fifth Report and Order in MM Docket No. 87-268* ("Fifth Report and Order"), 12 FCC Rcd 12809, 12838 (1997), the Commission recognized that "there may be some broadcasters who do not wish to receive a second channel to convert to DTV" and requested that "licensees who wish to cancel the initial DTV license do so by writing the Commission within 90 days from the release date of the DTV Table of Allotments adopted in the *Sixth Report and Order*". The *Sixth Report and Order* was released on April 21, 1997. However, as explained above, and most importantly, Delta College's determination not to construct WDCP-TV's companion DTV Channel 18 was not reached in 1997. Indeed, the College filed a DTV implementation application in February 2000, which was granted in September 2001, and it was not until at least early 2002, when WDCQ-TV filed its DTV permit modification application - *almost five years after the April 1997 release of the DTV Table of Allotments*, that Delta College reached the final conclusion that it would not construct WDCP-TV's companion DTV Channel 18.

Frankly, the College assumed that after its WDCP-TV construction permit expired on May 1, 2003, the Commission would simply remove that authorization and its parameters from the DTV database automatically. Based on this thinking, the College did not file Form 381 in November 2004 or Form 382 in January 2005.

However, on July 20, 2005, the Media Bureau's Supervisory DTV Engineer, Mr. Nai Tam, telephoned Mr. Barry Baker, Director of Broadcasting at Delta College, and General Manager of Stations WDCP-TV and WDCQ-TV. Mr. Tam inquired about the College's failure to build a DTV facility for WDCP-TV. Mr. Baker generally described the foregoing rationale to Mr. Tam, and then called undersigned counsel. Undersigned counsel in turn called Mr. Tam. Mr. Tam informally advised counsel that some type of explanatory letter or request for continued operating authority should be filed to fill the gaps in the Commission's records concerning WDCP-TV.

Because of the concerns raised by Mr. Tam, this letter to the Commission is couched as a "contingent request for authority to continue to operate an NTSC station without a companion DTV station". However, the College does not believe that it needs any such authority, in light of the Commission's recognition in the *Fifth Report and Order*, *supra*, that NTSC stations are not obliged to keep a companion DTV channel. Importantly, the Commission did not state in the *Fifth Report and Order* that NTSC stations which did not build DTV stations would require special authority to continue operating their NTSC stations until the end of the DTV transition.

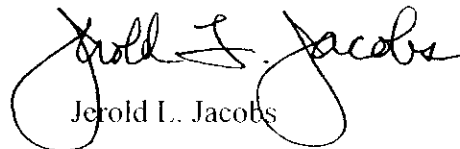
Upon reflection, and in light of the above-described recent events, Delta College sincerely regrets that it did not affirmatively inform the Commission sooner about its abandonment of its DTV Channel 18 allotment. It is possible that other NTSC stations in Delta College's environs may wish to elect to use that DTV frequency in the current channel election process, but are not sure that the frequency is available. This letter makes the availability of DTV Channel 18 at University Center, Michigan crystal-clear, which may help stations in the Second Round of DTV channel selections and thereafter.

**Conclusion**

To the extent necessary, Delta College respectfully requests authority for WDCP-TV to continue to operate on NTSC Channel 19 until the end of the DTV transition period without constructing and operating its companion DTV Channel 18. The College sincerely regrets that it did not affirmatively notify the Commission sooner that it did not intend to construct DTV Channel 18. However, the College does not believe that this decision should prevent it from continuing to operate on NTSC Channel 19 (Station WDCP-TV) until the end of the DTV transition. At that point, the College will simply shut down NTSC Station WDCP-TV.

Please direct any inquiries or correspondence concerning this matter to the undersigned.

Sincerely



Jerold L. Jacobs

cc: Nai Tam  
James Brown, Esq. (both FCC via e-mail)